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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,911	06/19/2000	JAN ERIKSSON	49549-60259	4412

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ARLINGTON, VA 22202

EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/13/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/581,911

Applicant(s)

ERIKSSON, JAN

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,058 to Jakobson et al in view of European Patent No. 0244642 to Eugene P. Finger.

Regarding Claims 1-4 and 8-10, Jakobson et al discloses an animal related apparatus with a robot (Jakobson et al #8) for performing an animal relates operation, the robot being associated with a control means (Jakobson et al #5), at least one animal related device (#6) associated with the control means, the robot being provided with a robot arm (Jakobson et al #15) adapted to move the animal related device towards the animal, teat location device, teat cleaning device (Jakobson et al Fig. 6 #18), gate means (Jakobson et al #4"). A registering means (Jakobson et al #14 and #18), a control means adapted to generate a signal (Jakobson et al Col. 6 line 27-28) when a predetermined threshold value has been reached. Jakobson et al is silent on a predetermined threshold value and running value set for each of the animal related device, the robot, and the complete related operation. However, Finger teaches that it

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is old and well-known in the art of routine mechanical maintenance practices to monitor the total operating time of a machine or apparatus and that the cumulative operating measurement provides a basis for determining when the device should receive maintenance. It would have been obvious to one of ordinary skill in the art to modify the apparatus teachings of Jakobson et al with the maintenance practices of Finger since preventative maintenance procedures are a well-known means of preventing unnecessary operational down time do to mechanical failures and to keep the system clean to prevent the spread of bacteria and disease to the other members of the herd (Finger Col.1) thus assuring reliability of a system.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,508,058 to Jakobson et al as applied to claim 1 above, and further in view of WO 96/36212 to Innings et al.

Regarding Claims 5-7, Jakobson et al teaches that the animal related device has milking equipment with a teat-cup (Jakobson et al Fig.6) and the control means being adapted to register the cumulative running value of the components of the apparatus (Finger Col. 1), but is silent on how the teat-cup operates. However, Innings et al teaches a teat cup configuration having a shell and a liner forming an intermediate space (Innings et al #6), the space being connectable to a source of vacuum (Innings et al #13) via a pulsator for creating a pulsating vacuum (Innings et al #7), the pulsator associated with the control means (Innings et al #20). It would have been obvious to one of ordinary skill in the art to modify the teachings of Jakobson et al with the teachings of Innings et al since it is old and well-known in the art of animal husbandry to

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have a lined pulsating teat cup with a vacuum in an automated milking configuration and the teachings of Innings et al is merely an alternate equivalent teat cup configuration selected for efficient automated milking procedures.

Response to Arguments

Applicant's arguments filed 27 November 2002 have been fully considered but they are not persuasive.

Examiner maintains that Jakobson in view of Finger is a valid combination that does in fact teach all aspects of the claim limitations as presented above.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*

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Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner maintains that one of ordinary skill in the art would in fact look to the teachings of Finger since Finger explicitly states that the invention is applicable for a machine or apparatus (Finger Col. 1 line 4) and particularly electrically energized devices (Finger Col. 1 line 20). Finger does not disclose that his teachings are only applicable to the communication/aircraft industry. A machine is a machine and one of ordinary skill in the art of machine design would be motivated to combine the teachings for the reason taught by Finger (Finger Col. 1 line 26-29). The milking machine of Jakobson is merely an alternate electrically energized device.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-

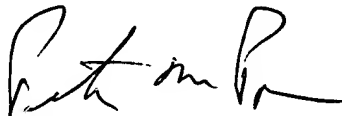
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3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-0285 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

AMV
February 12, 2003


PETER M. POON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600